

AMENDED AND RESTATED DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS
APPLICABLE TO ALL PROPERTY IN GATLING POINTE

Parcel ID#s: See Schedule A (too numerous to list)
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**AMENDED AND RESTATED DECLARATION
OF
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APPLICABLE TO ALL PROPERTY IN GATLING POINTE**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS APPLICABLE TO ALL PROPERTY IN GATLING POINTE (“Declaration”) is made this ____ day of _____, 20____, by Gatling Pointe Community Association, Inc., a Virginia nonstock corporation (the “Association”), the Association to be indexed as both “Grantor” and “Grantee” for recordation purposes.

**RECITALS:
(LEGAL HISTORY, PURPOSE OF THIS DECLARATION, OWNERS’ INTENT)**

WHEREAS, the Association’s Developer, Tidewater Brandermill Associates, a Virginia general partnership (the “Company”), created Gatling Pointe Subdivision (“Gatling Pointe”) by that document titled “Declaration of Rights, Restrictions, Affirmative Obligations and Conditions Applicable to all Property in Gatling Pointe” (“Original Declaration I”), dated June 9, 1988, and recorded that day in the Clerk’s Office of the Circuit Court of the County of Isle of Wight, Virginia (“Clerk’s Office”) in Deed Book 342, Page 139, as the same was amended from time to time; and

WHEREAS, the Company also recorded a document titled “Declaration of Covenants and Restrictions of the Gatling Pointe Community Association, Inc. and Tidewater Brandermill Associates, A Virginia General Partnership” (“Original Declaration II”) dated June 9, 1988, and recorded that day in the Clerk’s Office in Deed Book 342, Page 152, as the same was amended from time to time; and

WHEREAS, the Company caused Gatling Pointe to become an incorporated association by submitting Articles of Incorporation to the Virginia State Corporation Commission, which such Articles were accepted and certified by the SCC on April 4, 1988, created Gatling Pointe Community Association, Inc., a Virginia nonstock corporation (the “Association”); and

WHEREAS, the Association’s Board of Directors thereafter adopted Bylaws of the Association; and

WHEREAS, Gatling Pointe is comprised of 263 Lots and Common Property described in Exhibit A to this Amended and Restated Declaration, and the Owners of Gatling Pointe Lots are Members of the Association; and

WHEREAS, the Association’s Owners believe it is in the best interests of the Association to combine Original Declaration I and Original Declaration II into one Declaration and to update the provisions of both Declarations to comply with current laws applicable to the Association as a Virginia property owners’ Association; and

WHEREAS, Original Declaration I and Original Declaration II can be amended by a

vote of two-thirds (2/3rds) of the votes cast at an Association Meeting.

NOW, THEREFORE, the Owners do hereby declare that Original Declaration I and Original Declaration II shall be replaced by this Declaration immediately upon recordation of this Declaration in the Clerk's Office; and

NOW, THEREFORE, FURTHER, the Owners do hereby declare that the covenants contained in this Declaration shall be covenants running with the land and shall apply to the lands described in Exhibit A to this Declaration that the real property described in Exhibit A is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations, and liens as hereinafter set forth.

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
APPLICABLE TO ALL PROPERTY IN GATLING POINTE**

DEFINITIONS

When used herein, the following words shall have the following meanings:

- (a) "Annual Assessment" shall mean and refer to the assessment amounts set forth in Article V of this Declaration.
- (b) "Architectural Review Board" shall mean and refer to the body to be appointed by the Board of Directors of the Association pursuant to Article VII of this Declaration.
- (c) "Association" shall mean and refer to Gatling Pointe Community Association, Inc., a Virginia nonstock corporation, its successors and assigns.
- (d) "Basic Assessment" shall mean and refer to the assessment levied by the Association pursuant to Article V of this Declaration.
- (e) "Clerk's Office" shall mean the Clerk's Office of the Circuit Court of the Isle of Wight County, Virginia.
- (f) "Common Property" shall mean and refer to those tracts of land with any improvements thereon which are designated as "open space" on the Master Plan.
- (g) "Company" shall mean Tidewater Brandermill Associates, a Virginia general partnership, its successors and assigns, and any agent or agents appointed by such Partnership or licensees thereof, its or their successors and assigns. The Company developed Gatling Pointe Subdivision.
- (h) "County" shall mean and refer to Isle of Wight County, Virginia.
- (i) "Covenants" shall mean and refer to the provisions of this Declaration.
- (j) "CPI" shall mean and refer to the Consumer Price Index, U.S. City Average, issued by the U.S. Bureau of Labor Statistics in its monthly report entitled "The Consumer Price Index, U.S. City Average and Selected Areas", or, in the event such index is discontinued, the most similar index, in the opinion of the Board of Directors, published by the United States Government that may be procured indicating changes in the cost of living.
- (k) "Declaration" shall mean and refer to this instrument.
- (l) "Gatling Pointe" shall mean and refer to the lands in Isle of Wight County, Virginia, which are shown as a part of Gatling Pointe on the Master Plan.
- (m) "General Property Covenants" shall mean and refer to the covenants and

restrictions contained in the Declaration.

(n) "Limited Special Assessment" shall mean and refer to assessments of the Association pursuant to Article V of this Declaration.

(o) "Master Plan" shall mean and refer to the drawing which represents the conceptual plan for the development of Gatling Pointe, as it was amended from time to time.

(p) "Member" shall have the meaning given to such term in the Articles of Incorporation of the Association.

(q) "Neighborhood Area" shall mean and refer to areas in Gatling Pointe designated as neighborhoods on the Master Plan and subdivision plats recorded in the Clerk's Office.

(r) "Owner" shall mean and refer to the owner as shown by the real estate records in the Clerk's Office, whether it be one (1) or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Residential Lot, but, notwithstanding any applicable theory of a deed of trust, shall not mean or refer to a trustee, mortgagee or holder of a deed of trust, its successors or assigns, unless it has acquired fee simple title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure, nor any Tenant of an owner. In the event that there is recorded in the Clerk's Office a contract of sale where the purchaser is required to make payments for a period extending beyond nine (9) months from the date of the contract and where the purchaser does not receive title to the property until all such payments are made, although the purchaser is given the use of said property covering any Residential Lot, the owner thereof shall be deemed to be the purchaser under said contract.

(s) "Primary Member" shall mean and refer to the person appointed by joint Owners or a corporate Owner to serve as the Member with respect to the Residential Lot owned by such joint Owners or corporation.

(t) "Property" shall mean and refer to the Residential Lots, Common Property and any other property described in Exhibit A hereto.

(u) "Reserve Fund" shall mean and refer to the fund created pursuant to Article V of this Declaration.

(v) "Residential Lot" shall mean and refer to a subdivided parcel of land located within the Property which has been improved by the construction of a single family detached dwelling and related structures, as shown upon any recorded final subdivision plat of the Property.

(w) "Special Assessment" shall mean and refer to an assessment by the Association pursuant to Article V of this Declaration.

(x) "Tenant" shall mean and refer to the lessee under a written agreement for the rent and hire of improvements on a Residential Lot.

ARTICLE I: COVENANTS, RESTRICTIONS AND
AFFIRMATIVE OBLIGATIONS APPLICABLE TO ALL PROPERTY

Section 1. Purpose of General Property Covenants. The primary purpose of the General Property Covenants is the continuation of a community which is aesthetically pleasing and functionally convenient. The establishment of certain objective standards relating to design, size and location of dwellings and other structures makes it impossible to take full advantage of the individual characteristics of each parcel of Property and of technological advances and environmental values.

Section 2. Implementation of General Property Covenants. In order to implement the purpose of these General Property Covenants, the Board may establish and amend from time to time architectural standards, construction specifications, uniform sign regulations, uniform mailbox regulations, landscape guidelines, environmental rules and regulations, and other standards and guidelines which shall be binding on all Owners.

Section 3. Actions by Board. Unless stated to the contrary herein, wherever the approval of or any determination by the Board is required in this Declaration, refusal or approval or such determination may be based by the Board upon any ground, including purely aesthetic considerations, which in the sole and uncontrolled discretion of the Board shall seem sufficient.

Section 4. Approval of Plans. No building, fence or other structure shall be erected, placed, or altered, nor shall a building permit for such improvement be applied for on any Property until the proposed building plans, specifications, exterior color or finish, site plan, landscape plan and construction schedule shall have been approved in writing by the Board. One (1) copy of all plans and related data shall be furnished to the Board for its records.

Section 5. Alterations to Buildings or Structures. No alteration in the exterior appearance of any building or structure, including exterior color or finish, shall be made without prior written approval of the Board.

Section 6. Location of Improvements. Buildings and other structures shall be located and staggered so that the maximum view, privacy, sunlight, and breeze will be available to each building or structure and so that structures will be located with due regard to the topography of each Residential Lot, taking into consideration the location of large trees and other aesthetic and environmental considerations.

Section 7. Parking. Space for the parking of automobiles off public streets shall be provided prior to the occupancy of any building or structure constructed on any Residential Lot.

Section 8. Signage. No sign shall be erected or maintained on any Common Property or Residential Lot until the proposed sign, size, color, content and location shall have been approved in writing by the Board.

Section 9. Upkeep of Property. The grounds and all buildings and structures on all Common Property and Residential Lots shall be kept free of unclean, unsightly, unkempt, unhealthy, or unsafe conditions.

Section 10. Mailboxes; Alteration Thereof. No mailbox shall be erected or maintained on any Residential Lot until the proposed mailbox design, color, and location have been approved in writing by the Board. No alteration in the exterior appearance of any mailbox shall be made without like prior written approval of the Board.

Section 11. Sewerage Disposal. Prior to the occupancy of a building or structure on any Residential Lot, provisions acceptable to the Board shall be made for the disposal of sewage.

Section 12. Water Availability. Prior to the occupancy of a building or structure on any Residential Lot, provisions acceptable to the Board for water shall be made by connection.

Section 13. Utilities Easement. The Board reserves a perpetual, alienable, and releasable easement and right, on, over and under the Property to erect, maintain, and use electric, community antenna television, cable television, telephone and other utility poles, wires, cables, and conduits, drainage ways, sewers and water mains, and all related equipment for the provision of electric, telephone, gas, sewer, water, drainage or other public conveniences or utilities to the Property; provided, however, that no such utility easement shall be applicable to any portion of any Property that may (a) have been used prior to the installation of such utilities on such portion of the Property for construction of improvements whose plans were approved pursuant to this Declaration by the Company, or (b) may be designated as the site for a building on a site plan which has been approved in writing by the Board. The foregoing easement includes the right to cut any trees, bushes, or shrubbery, make any grading of the soil, or to take any other similar action necessary to provide economical and safe utility services and to maintain reasonable standards of health, safety, and appearance. The Board will use its reasonable efforts to locate utility services along two (2) boundary lines of a Residential Lot.

Section 14. Wells, Pumping Stations, Etc. The Board may locate wells, pumping stations, siltation basins, and tanks on the Property, provided, however, that it shall not do so on any Residential Lot without the prior written consent of the Owner thereof .

Section 15. Topographical Changes. Topographic and vegetation characteristics of any Property shall not be altered by excavation, grading, removal, reduction, addition, clearing, cutting, pruning, seeding, planting, transplanting, or any other means without the prior written approval of the Board. Should written notice be served by the Board upon any Owner requiring corrective alteration of topographic and vegetation characteristics pursuant to Sections 16 or 17 of this Article I, such notice shall be deemed to constitute the approval required herein.

Section 16. Removal of Trees. No trees (other than those that are dead or diseased) measuring six (6) inches or more in diameter at a point two (2) feet above ground level may be removed without the prior written approval of the Board. Approval for the removal of trees located within ten (10) feet of the main dwelling or accessory building or within ten (10) feet of the approved site for such building will be granted unless such removal will substantially

decrease the beauty of the Property.

Section 17. Erosion Control. Provided that the Board has given an Owner written notice of action required to establish and maintain effective erosion control on any Residential Lot, and the Owner has failed to take such action within seven (7) days of the date of such notice, the Board shall have the right to enter upon any Residential Lot Property to perform action required to establish and maintain effective erosion control.

Section 18. Control of Vegetation. Provided the Board has given written notice to an Owner of the presence of underbrush, weeds or other unsightly growth that in the Board's opinion detracts from the overall beauty, setting and safety of the Property, and the Owner has failed within thirty (30) days of the date of such notice to correct such condition, the Board may enter upon any Property to mow, remove, clear, cut or prune such underbrush, weeds, or other unsightly growth.

Section 19. Easement for Pest and Fire Control. The Board reserves a perpetual, alienable, and releasable easement and right on, over and under any Property to dispense pesticides and take other actions necessary or desirable to control insects and vermin and to control fires on any Property or any improvements thereon.

ARTICLE II: ADDITIONAL RESTRICTIONS AFFECTING COMMON PROPERTY

Section 1. Right to Convey. The Board reserves the right to transfer, sell, convey, give, donate, or lease to any third party any portion of the Common Property, subject to the provisions of this Article II and all other restrictions or limitations which the Board shall elect to impose.

Section 2. Easement in Common Property. An easement in the Common Property is hereby granted to the Owners, Tenants, and their guests, which easement shall entitle such Owners, Tenants, and guests to enjoy the Common Property subject to rules and regulations established from time to time by the Board and subject to the restrictions contained herein. The granting of the foregoing easement in no way grants to anyone other than Owners, Tenants and their guests the right to enter the Common Property without the prior written permission of the Board.

Section 3. Improvements. The Common Property may be improved and employed with facilities for social, recreational and Community buildings, public and private clubs and other recreational facilities, and indoor and outdoor recreational establishment. Such facilities may include, but shall not be limited to, appropriate buildings, structures, roads, driveways, parking areas and utility equipment.

Section 4. Board's Right of Access. The Board reserves the right to enter upon the Common Property to construct, landscape, maintain and operate any improvements located thereupon. The Board further reserves the right to authorize the construction, landscaping, maintenance or operation of such facilities within the Common Property by the Association or any other third party.

ARTICLE III: ADDITIONAL RESTRICTIONS AFFECTING RESIDENTIAL LOTS

Section 1. Minimum Size Requirements. Plans required under Article I of this Declaration shall be approved only if the proposed house, dwelling unit, or other structures will have the required minimum square footage of enclosed finished dwelling space (excluding garages, terraces, decks, open porches, screened porches, and similar areas) to be specified in each sales contract and stipulated in each deed.

Section 2. Use. All Residential Lots shall be used solely for residential purposes, recreational purposes incidental thereto, and for customary accessory uses. The use of a portion of a dwelling unit on a Residential Lot as an office by an owner or Tenant shall be considered a residential use provided that, in the opinion of the Board, such use does not create undue customer or client traffic, as determined by the Board, to and from the Residential Lot.

Section 3. Permitted Structures. No structure shall be erected, altered, placed or permitted to remain on a Residential Lot other than one (1) detached single family dwelling and one (1) small one-story accessory building (which may include a detached private garage), provided that, in the opinion of the Board, the use of such accessory building does not overcrowd the Lot. Such accessory building may not be constructed prior to the construction of the detached single family dwelling.

Section 4. Guest Wings. A guest suite or like facility without a kitchen may be included as part of the single family detached dwelling or accessory building on any Residential Lot provided, however, that, in the opinion of the Board, such suite will not result in overcrowding the Lot, as determined by the Board. No such suite or facility may be rented or leased except as part of the rental or lease of all improvements on the Residential Lot.

Section 5. Completion of Exterior of Improvements. The exterior of each detached single family dwelling and all other structures on all Residential Lots must be completed within one (1) year after the construction of same shall have commenced except where such completion is impossible or would result in great hardship to the Owner or builder due to strikes, fires, national emergency or natural calamities, and may not be occupied, whether temporarily or

permanently, until such exterior is so completed. During the continuance of construction, the Owner of the Lot shall require the contractor to maintain the Lot in a reasonably clean and uncluttered condition. Provided the Board has given the Owner prior written notice of the Owner's failure to so complete such exterior, and the Owner has failed to complete or cause to be completed such exterior within thirty (30) days of the date of such notice, in the event such exterior is not so completed, the Board shall be entitled to take any action necessary to complete such exterior or, if, in the Board's opinion it is appropriate to do so, to demolish any uncompleted improvements and restore the Residential Lot to its condition prior to the commencement of construction, and assess the expenses for the same to the Owner of the Lot.

Section 6. Screening or Facilities. Each Owner shall provide a screened area to serve as a service yard and an area in which garbage receptacles, fuel tanks or similar, storage receptacles, electric and gas meters, air conditioning, equipment, clotheslines, and other unsightly objects may be placed or stored in order to conceal them from view of the road and adjacent Property. Garbage receptacles and fuel tanks may be located outside of such screened area only if located underground at locations approved in writing by the Board prior to installation.

Section 7. Garbage Pickup. Trash containers may be placed at the curbside the evening prior to garbage pickup and shall be returned to the screened area required by Section 6 above by the morning of the day after the garbage is collected.

Section 8. Limitation on Types of Structures. No mobile home, trailer, tent, barn or other similar outbuilding or structure shall be placed on any Residential Lot at any time, either temporarily or permanently. Boats, utility trailers, campers, recreational vehicles, oversized vehicles, or utility trailers may be placed or stored on a Residential Lot, but only within an approved enclosed or screened area such that they are not generally visible from adjacent Property.

Section 9. Temporary Structures. No structure of a temporary character shall be placed upon any Residential Lot at any time, other than shelters or temporary structures used by the contractor during the construction of the detached single family dwelling, the design and color of which have been approved in writing by the Board. No permitted temporary shelter may remain on a Residential Lot after completion of construction of the detached single family dwelling.

Section 10. Limitation on Antennas, Etc. The following devices do not require prior written approval of the Board provided they are erected, used and maintained in strict conformance with the standards set forth herein: (a) one roof antenna for television reception, provided, however, the antenna shall not extend more than ten (10) feet above the highest point of the roof or (b) one satellite dish, provided, however, the dish antenna must not exceed eighteen (18) inches in diameter, shall not be visible from any street, shall be screened from view of any adjoining Residential Lot(s), street(s) and/or Common Property and shall be located on the rear of the house either just below the roof ridge or on the fascia board below the roof eaves. Any cable associated with such satellite dish antenna shall be buried or shall be visible on the structure to which it is attached or extended.

Section 11. Subdivision. Except as set forth below, no Residential Lot shall be subdivided or its boundary lines changed without the prior written consent of the Board. Two (2) or more contiguous Residential Lots may be combined by an Owner into one (1) larger Residential Lot, and, in such event, only the exterior boundary lines of the resulting larger Residential Lot shall be considered in the interpretation of this Declaration.

Section 12. Docks. No dock, pier or other structure, or any portion thereof, shall be constructed below or channelward of the high-water mark of any water course within or adjoining the Property or any portion thereof by the Owner of any Residential Lot or the Tenant of any such Owner or by the Association. The only such structures permitted within the Property shall be in connection with the improvements to be known as the "Gatling Pointe Yacht Club".

ARTICLE IV: PROPERTY RIGHTS IN COMMON PROPERTY

Section 1. Easement of Enjoyment. Subject to the provisions of this Declaration, the rules and regulations of the Association, and any fees or charges established by the Association, every Member, every guest of such Member, and employees and agents of the Association shall have an easement of enjoyment in and to the Common Property, and such easement shall be appurtenant to and shall pass with the title of every Residential Lot. A Member's spouse, parents, children and grandchildren who reside with such Member in Gatling Pointe shall have the same easement of enjoyment hereunder as a Member.

Section 2. Extent of Members' Easements. The easement of enjoyment created hereby shall be subject to the following rights of the Association:

(a) To borrow money from any lender for the purpose of improving end/or maintaining the Common Property and providing services authorized herein, or any other purpose permitted by the Articles of Incorporation of the Association, and, in aid thereof, to mortgage said Property, provided that any such mortgage is with the prior consent of two-thirds (2/3rds) of the Members, which consent may be evidenced by petition or an affirmative vote at a duly called meeting;

(b) To take such steps as are reasonably necessary to protect the Common Property against foreclosures;

(c) To suspend the easement of enjoyment of any Member or guest of any Member for any period during which the payment of any assessment against a Residential Lot owned by such Member remains delinquent, and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations, it being understood that any suspension for nonpayment of any assessment shall not constitute a waiver or discharge of the Member's obligation to pay the assessment;

(d) To charge reasonable admission and other fees for the use of recreational facilities and services on the Common Property;

(e) To dedicate or transfer appropriate easements to any public or private utility on any part of the common Property; and

(f) To give or sell all or any part of the Common Property including leasehold interests, subject to the limitations and restrictions imposed by the General Property Covenants and all other restrictions and limitations of record at the time of any such gift or sale, to any public agency, authority, public service district, utility, or private concern for such purposes and subject to conditions as may be agreed to by the Members, provided, however, that no such gift or sale of any parcel of land and improvements thereon, or determination as to the purposes or as to the conditions thereof, shall be effective unless such dedication, transfer, and determination as to purposes and conditions shall be authorized by the affirmative vote of three-fourths (3/4ths) of the votes cast at a duly called meeting of the Members. Upon any such conveyance, a true copy of such resolution, together with a certificate of the results of the vote taken thereon, shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association and annexed to the deed and recorded therewith in the Clerk's Office. Such certificate shall be conclusive evidence of authorization by the Membership. The gift or sale of any personal property owned by the Association shall be determined by the Board of Directors in its discretion.

ARTICLE V: COVENANTS FOR ASSESSMENTS

Section 1. Covenant to Pay Assessments. Each Owner of a Residential Lot at the time any such assessment first becomes due covenants to pay to the Association annual assessments and special assessments for the purposes as provided for in this Article. In the case of co-ownership of a Residential Lot such co-owners shall be jointly and severally liable for the entire amount of any assessments.

Section 2. Purpose of Assessments. Assessments shall be used exclusively to improve, maintain, enhance, enlarge, and operate the Common Property, and to provide services which the Association is authorized to provide. Special assessments shall be used exclusively for the purposes set forth in Article VII of this Declaration.

Section 3. Annual Assessment. The initial Annual Assessment shall be in the amount of 40 Dollars (\$40.00) per calendar quarter for each Unimproved Residential Lot and the sum of Forty Dollars (\$40.00) per calendar quarter for each Improved Residential Lot. The initial Annual Assessment shall be levied for the remainder of 1988 commencing no later than October 1, 1988.

Section 4. Automatic Increase in Annual Assessment. From and after January 1, 1989, the Annual Assessment shall be automatically increased each year by the greater of (a) ten percent (10%), or (b) the percentage increase between the first and last months of the thirteen (13) month period terminating at the end of the third (3rd) quarter of the previous year in the CPI.

Section 5. Reduction in Annual Assessment. Subject to the limitation set forth below, the Board of Directors may levy an Annual Assessment for any given year in an amount less than that determined by the provisions of Sections 3 and 4 of this Article. In any year with respect to which the Board of Directors has levied an Annual Assessment in an amount less than that determined by the provisions of Sections 3 and 4 of this Article, the Board of Directors may during such year levy a supplemental assessment, provided the sum of the Annual Assessment initially levied for such year and any supplemental assessment(s) does not exceed the amount of the Annual Assessment that would have been determined by the provisions of Sections 3 and 4 of this Article.

Section 6. Increase in Annual Assessment. The Board of Directors may propose from time to time an increase in the Annual Assessment provided for in Sections 3 and 4 of this Article (whether to be in effect for one (1) year or a longer period), and, if any such increase is approved by the Members at a duly called meeting, an appropriate amendment to this Declaration shall be recorded in the Clerk's Office setting forth the revised procedures for the Annual Assessment.

Section 7. Billing Dates for Annual Assessment. The Board of Directors shall bill Owners for the Annual Assessment no less frequently than annually. Except as set forth below, payment shall be due within thirty (30) days of the date of the bill rendered. If the Board of Directors elects to utilize a third party billing service, such service shall set the date on which assessments bill shall be due and payable.

Section 8. Special Assessment. Subject to the provisions of this Section 8, the Association may levy a Special Assessment from time to time for construction, reconstruction, repair or replacement of, or additions to, capital improvements and for any personal property related thereto located upon the Common Property or to repay any loan agreement entered into by the Association. No Special Assessment shall be levied without first being approved by the Members at a duly called meeting, the notice for which included one (1) statement from those Directors favoring the special assessment and one (1) statement from those Directors opposing the special assessment, if any, with each such statement containing the reasons for those Directors' support and opposition for the proposed Special Assessment and not exceeding five (5) pages in length.

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Section 9. Amount of Special Assessment. The amount of any Special Assessment(s) made in one assessment year may not exceed the amount of the Annual Assessment for such year determined in accordance with Sections 3 and 4 of this Article IV unless greater amount is required for an emergency situation or repairs required as a result of storm, fire, natural disaster, or other casualty loss.

Section 10. Reserve Fund. The Association shall establish a Reserve Fund with a portion of the proceeds of Annual Assessments to be held in an interest bearing account or investments as a reserve for major rehabilitation or repairs of improvements on the Common Property, emergency and other repairs required to such improvements as a result of storm, fire, natural disaster, or other casualty loss, or the initial costs of any new services to be performed by the Association.

Section 11. Limited Special Assessment. Upon petition of seventy-five percent (75%) of all Owners within a particular Neighborhood Area, or two or more contiguous Neighborhood Areas or with the approval of seventy-five percent (75%) of the affected Members at a duly called meeting, the Board of Directors may levy a Limited Special Assessment applicable only to each Owner within such Area or Areas, to undertake special neighborhood improvements, neighborhood rehabilitation or construction, special neighborhood security and neighborhood maintenance. For the purposes of this Section 11, the notice and quorum requirements for meetings of Members set forth in the Articles of Incorporation of the Association shall be applied. The Association may borrow to fund the object of any Limited Special Assessment and repay any such loan with the receipts from the Limited Special Assessment.

Section 12. Certificates Relating to Assessments. At the request of an Owner, the Association or any billing service engaged by the Association shall furnish a certificate signed by an Officer of the Association setting forth the payment status of any Annual Assessment, Special Assessment, or Limited Special Assessment for which such Owner is responsible. Such certificate shall be conclusive evidence against all but the Owner of the information set forth therein.

Section 13. Lien Status of Assessment; Subordination. If any Annual Assessment, Special Assessment, or Limited Special Assessment is not paid within thirty (30) days of its due date, then such Assessment, together with interest thereon at the legal rate from the due date and costs of collection thereof (including a reasonable attorney's fee) become a charge and continuing lien on the Residential Lot against which such Assessment was made. The foregoing lien shall be subordinate to the lien of any first deed of trust placed upon the Residential Lot subject to such lien and to any liens arising in favor of the Association under the provisions of the General Property Covenants.

Section 14. Remedies. If any Annual Assessment, Special Assessment, or Limited Special Assessment is not paid within sixty (60) days after the due date, the Association may bring an action at law against the Owner of the Residential Lot against which such Assessment was made to recover the amount of such Assessment, together with interest thereon at the legal rate from the due date and costs of collection thereof (including a reasonable attorney's fee).

ARTICLE VI: FINANCIAL STATEMENTS; BOOKS AND RECORDS

Section 1. Annual Statements. Within ninety (90) days after the close of each fiscal year of the Association, the President, Treasurer, or such other officer as may have custody of the funds of the Association shall prepare and execute under oath a balance sheet for the Association as of the close of such fiscal year, and a statement of income and expense for such fiscal year. Such statement shall identify all creditors of the Association individually owed more than One Thousand Dollars (\$1,000) as of the fiscal year end. Such financial statements shall be provided to any Member or holder of a note secured by a first mortgage on any Residential Lot making a request therefor in writing, within thirty (30) days after receipt of such request.

Section 2. Annual Budget. The Board of Directors shall prepare and make available to all Members, at least sixty (60) days prior to the first day of each fiscal year, a budget outlining anticipated receipts and expenses for the following fiscal year.

Section 3. Books and Records. The books and records of the Association shall be open to inspection during normal business hours by any Owner or holder of a note secured by a first mortgage on any Residential Lot.

ARTICLE VII: FUNCTIONS OF THE ASSOCIATION

Section 1. Ownership of the Properties. The Association may own and/or maintain the Common Property and all improvements thereon and personal property related thereto for any purpose not inconsistent with its Articles of Incorporation.

Section 2. Minimum List of Functions and Services. The Association shall:

(a) Establish, levy and collect the Annual Assessments, Special Assessments (if any), and Limited Special Assessments (if any).

(b) Establish and operate an Architectural Review Board, which shall be composed of at least three (3) but not more than eleven (11) Members, all of whom shall be appointed by the Board of Directors of the Association. The purpose of the Architectural Review Board shall be to approve all improvements proposed to be constructed on the Common Property and any alterations thereof.

(c) Maintain and operate the Common Property.

(d) Administer and enforce the General Property Covenants, this Declaration, and any other covenants and restrictions of record, and assume responsibility for any obligations which are incident thereto.

(e) Provide appropriate liability and hazard insurance coverage for improvements and activities on the Common Property.

(f) Endeavor to provide appropriate Directors and Officers Liability Insurance for the directors and officers of the Association.

(g) Keep a complete record of all its acts and corporate affairs.

(h) Provide regular and thorough cleanup of all roads, roadways, roadway medians, parkways, cul-de-sac islands, neighborhood and other entrances, and bike trails throughout the Property, including, but not limited to, mowing grass on the roadsides, cul-de-sac islands, entrances, and bike trails, sweeping all roads and bike trails, landscape maintenance on all roadsides, cul-de-sac islands, entrances, and bike trails, pickup and disposal of trash on all roads, roadsides, cul-de-sac islands, entrances, and bike trails.

(i) Maintain all directional signs, bike trail signs, and neighborhood and other area signs within the Property, including, but not limited to, painting, repair work and replacement as needed.

(j) Repave all bike trails within the Property as needed.

(k) Operate and maintain all streetlights along all public roads within the Property and on the Common Property.

Section 3. Insurance. Insurance coverage on the Property shall be governed by the following provisions:

(a) All insurance policies upon the Common Property shall be purchased by the Association for the benefit of the Association, the Owners and their mortgagees as their interests may appear. Certificates of mortgagee endorsement shall be issued upon request.

(b) All buildings and improvements and all personal property included in the Common Property shall be insured in an amount equal to one hundred percent (100%) insurable replacement value as determined annually by the Association with the assistance of the insurance company providing coverage. Such coverage shall provide protection against loss or damage by fire and other hazards covered by and standard extended coverage endorsement, and such other risks as from time to time shall be customarily covered with respect to comparable improvements and property. All policies shall contain clauses providing for waiver of subrogation.

(c) Public liability insurance shall be secured with limits of liability of no less than One Million Dollars (\$1,000,000) per occurrence and an endorsement to cover liability of the Owners as a group to a single Owner.

(d) All insurance policies shall provide that all proceeds thereof shall be payable to the Association as insurance trustee under this Declaration. The sole duty of the Association as insurance trustees shall be to receive such proceeds as are paid and to hold the same in trust for the purposes stated herein or in the Bylaws of the Association.

ARTICLE VIII: DURATION; TERMINATION; ADDITIONS;
LIMITATIONS; VIOLATION; AFTERWORD

Section 1. Duration. This Declaration shall run with the land for an initial term of thirty (30) years from the date of execution. Upon the expiration of said thirty (30) year period, this Declaration shall be automatically extended for successive terms of ten (10) years (the number of such extension terms being unlimited), unless this Declaration is terminated in the manner set forth below.

Section 2. Termination of Declaration. This Declaration shall be terminated at the end of the then-current term if, during the last year of such term, the Owners vote in favor of terminating this Declaration at a duly called meeting.

Section 3. Amendments. All proposed amendments to this Declaration shall be submitted to a vote of the Owners that, in the opinion of the Board, are substantially affected by the proposed Amendment at a duly called meeting. The procedures for notice of meeting and voting shall be the same as those set forth in the Articles of Incorporation of the Association for meetings of all Members. Any such amendment shall be deemed approved if two-thirds (2/3rds) of the votes cast at such meeting vote in favor of such amendment. No such amendment shall become effective earlier than sixty (60) days following the date of its adoption.

Section 4. Quorum Requirements. For the purposes of any meetings held pursuant to this Article IV, the presence at such meeting of Owners or proxies entitled to cast sixty percent (60%) of the total vote of all the Owners entitled to vote shall constitute a quorum. If the required quorum is not present, the Board may call another meeting or meetings subject to the giving of proper notice, and the required quorum at such subsequent meeting or meetings shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 5. Notice of Termination or Amendment. If this Declaration is terminated or amended, a certificate of termination or an addendum to this Declaration shall be recorded by the Board in the Clerk's Office. Such instrument shall set forth the date of the meeting at which action was taken, the nature of the action taken, the effective date of the action, the date that notice of such meeting was given, the total number of votes of owners entitled to vote on such action, the total number of votes required to constitute a quorum, the total number of votes present, the total number of votes necessary to approve such action, the total number of votes cast in favor of such action, and the total number of votes cast against such action.

Section 6. Remedy for Breach. In the event of a violation or breach or threatened violation or breach of any of the provisions herein, the Owners (jointly or severally), the Association, and the Board shall independently have the right to proceed at law or in equity to compel compliance to the terms hereof. Subject to the notice requirements set forth below, the Board also shall have the right to enter upon any portion of the Property where such violation or breach exists and summarily abate or remove the same at the expense of the owner thereof. If the nature of such violation or breach is such, in the opinion of the Board, as to require immediate corrective action, the Board shall have such right after written notice to the Owner of the portion of the Property affected and the failure by the Owner to take satisfactory immediate

corrective action; in any other event, the Board shall have such right if, after thirty (30) days written notice of such violation or breach, it shall not have been corrected.

Section 7. Due Process; Authority to Impose Charges. In addition to all other enforcement provisions in this Declaration, other recorded documents or by law, the Association hereby expressly adopts and incorporates in the Declaration the provisions of Section 55-515 of Virginia's Property Owners' Association Act ("POAA"), regarding compliance with the Declaration, and Section 55-513 of the POAA, regarding the adoption and enforcement of Rules and Regulations and the Declaration, as both provisions may be amended from time to time. The Board of Directors reserves the right to adopt by rule or regulation due process hearing procedures which will govern the Association's covenant enforcement activities in addition to those provided in this Section. The Board of Directors shall have the power to assess charges against any Lot Owner for any violation of the Declaration or Rules and Regulations for which the Lot Owner or the Owner's family members, tenants, guests, or other invitees are responsible, to the maximum level provided by the POAA.

Section 8. Failure No Waiver. The failure by the Owners, the Association, or the Board to enforce any right, reservation, restriction or condition contained in this Declaration, regardless of how long such failure shall continue, shall not constitute a waiver of or a bar to such right to enforce as to any other right, reservation, restriction or condition contained herein.

Section 9. Costs of Corrective Action; Lien. Whenever the Board takes any corrective action pursuant to Section 6 of this Article IV, the cost thereof shall be a personal obligation of the Owner of the portion of the Residential Lot affected at the time such costs are incurred. The cost shall be billed at the completion of such corrective action, and all bills shall be due and payable thirty (30) days from the date of mailing of same. If the cost is not paid when due, the Board may sue for a judgment, and, in addition to such cost, recover the costs of preparing and filing a complaint, a reasonable attorney's fee, and interest at the legal rate from the due date.

The cost of corrective action and all other amounts the Association is entitled to recover shall constitute a lien on the portion of the Property affected and the improvements thereon, which lien shall run with the land. Such lien shall be subordinate to the lien of any first deed of trust placed upon the affected portion of the Property.

Section 10. Association not Liable; No Trespass; No Affirmative Duty. The Association shall not be liable to any person on account of any duty, claim, liability, damage, or expense suffered, incurred by, or threatened against such person arising out of or as a result of any action by the Board or Association taken pursuant to this Declaration. No entry by the Board or any agent of the Association upon the Property pursuant to this Declaration shall be deemed a trespass. No reservation of rights by the Board in this Declaration shall be construed to impose on the Board or the Association a burden of affirmative action of any kind or nature whatsoever.

Section 11. Notices. Any notice required to be sent to any Member under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby

given, when delivered personally or sent by mail, with the proper postage affixed, to the address appearing on the Association's records. Notice to one (1) of two (2) or more joint owners or joint Tenants of a Residential Lot shall constitute notice to all joint Owners or joint Tenants. It shall be the obligation of every Member to immediately notify the Association in writing of any change of address. Any person who becomes a Member following the first day in the calendar month in which said notice is delivered or mailed shall be deemed to have been given notice if notice was given to his predecessor in title.

Section 12. Severability. Should any covenants or restrictions herein contained, or any article, section, subsection, sentence, clause, phrase, or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgement shall in no way affect the other provisions hereof, which are hereby declared to be severable and which shall remain in full force and effect.

Section 13. Interpretation. The Board of Directors of the Association shall have the right to determine all questions arising in connection with this Declaration and to construe and interpret its provisions, and their determination, construction, or interpretation shall be final and binding.

Section 14. Authorized Action. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board of Directors of the Association in the manner provided for in the Bylaws of the Association, unless the terms of this Declaration provide otherwise.

Section 13. Other Agreements. In the event of any conflict between this Declaration and the Articles of Incorporation or Bylaws, this Declaration shall prevail.

Section 14. Limited Liability. In connection with all reviews, acceptances, inspections, permissions, determinations, consents or required approvals by or from the Association contemplated under this Declaration, the Association shall not be liable to an Owner or to any other person on account of any claim, liability, damage, or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way relating to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals, whether given, granted or withheld.

CERTIFICATIONS REQUIRED BY VIRGINIA CODE § 55-515.1.F

Certification 1: Adoption of the Amended and Restated Declaration. In accordance with Section 4.5 of the Original Declaration I and Original Declaration II, the undersigned President of the Association does hereby certify:

1. This Amended and Restated Declaration ("Declaration") was reviewed by the Association's Owners at a Special Meeting of the Association held on June 6, 2016, (continued

from April 28, 2016, at which the required quorum was not present); and

2. The purpose of the Special Meeting of the Owners was to adopt this Declaration;
and

3. The Notice of the Annual Meeting was hand delivered and/or mailed to the
Association's Owners on March _____, 2016; and

4. 263 votes of the Owners were entitled to vote on adoption of this Declaration; and

5. 79 votes were required to constitute a quorum at the Annual Meeting; and

6. _____ votes were present at the Special Meeting at which the Declaration
was considered; and

7. _____ votes were necessary to approve adoption of the Declaration; and

8. _____ votes were cast in favor of adoption of the Declaration; and

9. _____ votes were cast against adoption of the Declaration; and

10. This Amended and Restated Declaration shall become effective on August 6,
2016, which is a date more than sixty (60) days following its adoption.

[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

Certification 2: In accordance with Section 55-515.1.F of the Virginia Property Owners' Association Act, the undersigned President of the Association does hereby certify the required majority of Lot Owners agreed to the adoption of this Amended and Restated Declaration in accordance with Section 4.3 of Original Declaration I and Section 4.3 of Original Declaration II, evidence of such adoption on file with the Association, and further certifies the requisite majority of Lot Owners signed the Amended and Restated Declaration or ratifications thereof.

EXECUTED on the date first written above by a duly authorized officer of the Association.

GATLING POINTE
COMMUNITY ASSOCIATION, INC.,
a Virginia Nonstock Corporation

By: _____
_____, President

COMMONWEALTH OF VIRGINIA,
CITY OF _____, to wit:

The foregoing instrument was acknowledged this _____ day of _____,
20____, before me, the undersigned Notary Public, by _____, President
of Gatling Pointe Community Association, Inc.

Notary Public

Notary Registration Number:

My Commission Expires:

This document is not signed and is intended to assist homeowners in searching for items.
The signed version is located [here](#).

Exhibit A

Parcel 1:

All of that certain tract, piece or parcel of land situate lying and being near the Village of Battery Park, in Newport Magisterial District, Isle of Wight County, Virginia, known as "Oyster Shell Neck", containing 215.36 acres as more particularly shown on that certain plat entitled "Plat Showing Lands of Margaret G. Amory, Edwin G. Gatling & W. Meade Gatling, et al", made by Talbot & Associates, Ltd. dated February 12, 1987, recorded with that certain Deed of Correction dated April 10, 1987, by and between Margaret G. Amory and Charles R. Amory, Sr., her husband, Edwin G. Gatling and Dorothy A. Gatling, his wife, and W. Meade Gatling and Jo Ann L. Gatling, his wife, and Tidewater Brandermill Associates, a Virginia general partnership, in the Clerk's Office of the Circuit Court of Isle of Wight County, Virginia, in Deed Book 326 at Page 675.

Parcel 2:

All that certain tract, piece or parcel of land situate lying and being near the Village of Battery Park, in Newport Magisterial District, Isle of Wight County, Virginia, containing 1.52 acres and designated on the foregoing Plat "Edward G. Gatling".

This document is not signed and is intended to assist homeowners in searching for items.
The signed version is located [here](#).

AMENDED AND RESTATED DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS
APPLICABLE TO ALL PROPERTY IN GATLING POINTE

Schedule A: Parcel Identification Numbers, Page 1

[TO BE ADDED UPON ADOPTION OF THIS DECLARATION BY THE OWNERS.]

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The signed version is located [here](#).

AMENDED AND RESTATED DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS
APPLICABLE TO ALL PROPERTY IN GATLING POINTE

Schedule A: Parcel Identification Numbers, Page 2

[TO BE ADDED UPON ADOPTION OF THIS DECLARATION BY THE OWNERS.]

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AMENDED AND RESTATED DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS
APPLICABLE TO ALL PROPERTY IN GATLING POINTE

Schedule A: Parcel Identification Numbers, Page 3

[TO BE ADDED UPON ADOPTION OF THIS DECLARATION BY THE OWNERS.]

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AMENDED AND RESTATED DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS
APPLICABLE TO ALL PROPERTY IN GATLING POINTE

Schedule A: Parcel Identification Numbers, Page 4

[TO BE ADDED UPON ADOPTION OF THIS DECLARATION BY THE OWNERS.]